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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,202	01/16/2001	James E. Mathews	03797.00090	6561

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EXAMINER

NGUYEN, JENNIFER T

ART UNIT

PAPER NUMBER

2674

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,202

Applicant(s)

MATHEWS ET AL.

Examiner

Jennifer T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14, 16-33 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardin, Sr. et al. (U.S. Patent No. 4,817,034).

Regarding claims 1 and 20, referring to Figs. 1 and 8A, Hardin teaches a method for detecting an in air gesture comprising step of: determining whether a digitizing pen (22) is not in contact with a digitizing writing surface (20); determining whether the digitizing pen (22) is in motion with respect to the digitizing writing surface (20); recording positional information of the digitizing pen (22) with respect to the surface of the digitizing writing surface (20) within a moving buffer (14) when the digitizing pen (22) is determined to not be in contact with the digitizing writing surface (20) and when the digitizing pen (22) is determined to be in motion with respect to the digitizing writing surface (20), the moving buffer (14) recording a predetermined amount of positional information spanning a predetermined amount of time while

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the digitizing pen (22) is in motion and not in contact with the digitizing writing surface (20); determining when the digitizing pen (22) has stopped motion with respect to the surface of the digitizing writing surface (20) while the digitizing pen (22) is not in contact with the digitizing writing surface (20); and determining whether positional information recorded in the moving buffer (14) corresponds to a predetermined in-air gesture that can be made with the digitizing pen (22) (from col. 10, line 50 to col. 11, line 23).

Regarding claims 2 and 21, Hardin teaches displaying (12) a predetermined user interface panel when the positional information recorded in the moving buffer (14) corresponds to a predetermined in-air gesture that can be made with the digitizing pen (22) (Fig. 1 and from col. 10, line 50 to col. 11, line 23).

Regarding claims 3-7 and 22-26, Hardin teaches the in-air gesture is a down spike motion, up spike motion, right spike motion, left spike motion (col. 15, lines 32-67 and col. 16, lines 1-12).

Regarding claims 11-13 and 30-32, Hardin teaches positional information recorded in the moving buffer corresponds to a predetermined in-air gesture is based on a detected motion shape, motion size, motion speed (col. 15, lines 32-67 and col. 16, lines 1-12).

Regarding claims 8 and 27, Hardin teaches the predetermined amount of positional information is about 200 points of coordinate information (col. 10, lines 50-55).

Regarding claims 9 and 28, Hardin teaches the predetermined amount of time that positional information is recorded in the moving buffer is about 1 second (col. 10, lines 50-55).

Regarding claims 10 and 29, Hardin teaches the moving buffer (14) includes positional information corresponding to a starting point and an ending point, and wherein the step of

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determining whether positional information recorded in the moving buffer (14) corresponds to the predetermined in-air gesture is based on a relative position of the starting point with respect to the ending point (from col. 10, line 50 to col. 11, line 23).

Regarding claims 14 and 33, Hardin teaches the digitizing pen (22) and digitizing writing surface (20) are electromagnetic devices (col. 3, lines 45-50).

Regarding claims 16 and 35, Hardin teaches the digitizing pen (22) is not in contact with the digitizing writing surface (20) includes a step of receiving an input indicating that the digitizing pen (22) is in a hovering state (col. 11, lines 14-23, col. 15, lines 23-67).

Regarding claims 17, 18, 36 and 37, Hardin teaches sending a predetermined sequence of characters to an application program when the positional information recorded in the moving buffer (14) corresponds to a predetermined in-air gesture that can be made with the digitizing pen (22) (col. 2, lines 1-8).

Regarding claims 19 and 38, Hardin teaches sending a predetermined command to an application program when the positional information recorded in the moving buffer (14) corresponds to a predetermined in-air gesture that can be made with the digitizing pen (22) (from col. 10, line 50 to col. 11, line 23).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 15 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardin, Sr. et al. (U.S. Patent No. 4,817,034) in view of Black (U.S. Patent No. 6,307,956).

Regarding claims 15 and 34, Hardin differs from claims 15 and 34 in that he not specifically teach the digitizing pen and digitizing writing surface are optical devices. However, referring to Figs. 1B and 2A, Black discloses digitizing pen and digitizing writing surface are optical devices (col. 19, lines 3-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the digitizing pen and digitizing writing surface are optical devices as taught by Black in the system of Hardin in order to provide a fine line pattern or image on the resist surface.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beaton et al. (U.S. Patent No. 6,340,979) teaches contextual gesture interface.

Ebisawa (U.S. Patent No. 6,369,802) teaches handwritten data input device having coordinate detection tablet.

Crooks et al. (U.S. Patent No. 5,587,560) teaches portable handwritten data capture device and method of using.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jennifer T. Nguyen** whose telephone number is **703-305-3225**.

The examiner can normally be reached on Mon-Fri from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard A Hjerpe** can be reach at **703-305-4709**.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks


Washington, DC. 20231

Or faxed to: 703-872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, sixth-floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is 703-306-0377.

Jennifer T. Nguyen
Patent Examiner
Art Unit 2674



RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600